

**FILED**

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**Board of Vocational Nursing  
and Psychiatric Technicians**

EDMUND G. BROWN JR., Attorney General  
of the State of California  
LINDA K. SCHNEIDER, State Bar No. 1010336  
Supervising Deputy Attorney General  
AMANDA DODDS  
Legal Analyst  
110 West "A" Street, Suite 1100  
San Diego, CA 92101  
P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2141  
Facsimile: (619) 645-2061

Attorneys for Complainant

**BEFORE THE  
DEPARTMENT OF CONSUMER AFFAIRS  
FOR THE BUREAU OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2006-510

STACY MICHELLE KLINDWORTH, LVN  
1872 Rustridge Place #107  
Corona, CA 92881

**A C C U S A T I O N**

Vocational Nurse License No. VN 211568

Respondent.

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this  
Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational  
Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about October 18, 2004, the predecessor to the Bureau of  
Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN  
211568 to Stacy Michelle Klindworth (Respondent). The Vocational Nurse License was in full  
force and effect at all times relevant to the charges brought herein and will expire on October 31,  
2008, unless renewed.

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1 (f) Conviction of a crime substantially related to the qualifications,  
2 functions, and duties of a licensed vocational nurse, in which event the record of  
the conviction shall be conclusive evidence of the conviction.

3 . . . .

4 8. Section 2878.5 of the Code states:

5 In addition to other acts constituting unprofessional conduct within the  
6 meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional  
conduct for a person licensed under this chapter to do any of the following:

7 (a) Obtain or possess in violation of law, or prescribe, or except as  
8 directed by a licensed physician and surgeon, dentist or podiatrist administer to  
himself or herself or furnish or administer to another, any controlled substance as  
9 defined in Division 10 of the Health and Safety Code, or any dangerous drug as  
defined in Section 4022.

10 (b) Use any controlled substance as defined in Division 10 of the Health  
11 and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic  
12 beverages, to an extent or in a manner dangerous or injurious to himself or  
herself, any other person, or the public, or to the extent that the use impairs his or  
13 her ability to conduct with safety to the public the practice authorized by his or  
her license.

14 (c) Be convicted of a criminal offense involving possession of any  
15 narcotic or dangerous drug, or the prescription, consumption, or  
self-administration of any of the substances described in subdivisions (a) and (b)  
16 of this section, in which event the record of the conviction is conclusive evidence  
thereof.

17 . . . .

18 9. Section 490 of the Code provides, in pertinent part, that the Board may  
19 suspend or revoke a license when it finds that the licensee has been convicted of a crime  
20 substantially related to the qualifications, functions or duties of a licensed vocational nurse.

21 10. Section 492 of the Code states:

22 Notwithstanding any other provision of law, successful completion of any  
23 diversion program under the Penal Code, or successful completion of an alcohol  
and drug problem assessment program under Article 5 (commencing with section  
23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit  
24 any agency established under Division 2 ([Healing Arts] commencing with  
Section 500) of this code, or any initiative act referred to in that division, from  
25 taking disciplinary action against a licensee or from denying a license for  
professional misconduct, notwithstanding that evidence of that misconduct may  
26 be recorded in a record pertaining to an arrest.

27 This section shall not be construed to apply to any drug diversion program  
28 operated by any agency established under Division 2 (commencing with Section  
500) of this code, or any initiative act referred to in that division.

1                   11.     Section 493 of the Code states:

2                   Notwithstanding any other provision of law, in a proceeding conducted by  
3                   a board within the department pursuant to law to deny an application for a license  
4                   or to suspend or revoke a license or otherwise take disciplinary action against a  
5                   person who holds a license, upon the ground that the applicant or the licensee has  
6                   been convicted of a crime substantially related to the qualifications, functions,  
7                   and duties of the licensee in question, the record of conviction of the crime shall  
8                   be conclusive evidence of the fact that the conviction occurred, but only of that  
9                   fact, and the board may inquire into the circumstances surrounding the  
10                  commission of the crime in order to fix the degree of discipline or to determine if  
11                  the conviction is substantially related to the qualifications, functions, and duties  
12                  of the licensee in question.

13                  As used in this section, "license" includes "certificate," "permit,"  
14                  "authority," and "registration."

15                  12.     California Code of Regulations, title 16, section 2521, states:

16                  For the purposes of denial, suspension, or revocation of a license pursuant  
17                  to Division 1.5 (commencing with Section 475) of the Business and Professions  
18                  Code, a crime or act shall be considered to be substantially related to the  
19                  qualifications, functions or duties of a licensed vocational nurse if to a substantial  
20                  degree it evidences present or potential unfitness of a licensed vocational nurse to  
21                  perform the functions authorized by his license in a manner consistent with the  
22                  public health, safety, or welfare. Such crimes or acts shall include but not be  
23                  limited to those involving the following:

24                  (a) Procuring a license by fraud, misrepresentation, or mistake.

25                  (b) A conviction of practicing medicine without a license in violation of  
26                  Chapter 5 of Division 2 of the Business and Professions Code.

27                  (c) Violating or attempting to violate, directly or indirectly, or assisting in  
28                  or abetting the violation of, or conspiring to violate any provision or term of  
29                  Chapter 6.5, Division 2 of the Business and Professions Code.

30                  (d) Aiding or assisting, or agreeing to aid or assist any person or persons,  
31                  whether a licensed physician or not, in the performance of or arranging for a  
32                  violation of any of the provisions of Article 13, Chapter 5, Division 2 of the  
33                  Business and Professions Code.

34                  (e) Conviction of a crime involving fiscal dishonesty.

35                  (f) Any crime or act involving the sale, gift, administration, or furnishing  
36                  of "narcotics or dangerous drugs or dangerous devices" as defined in Section  
37                  4022 of the Business and Professions Code.

38                  California Code of Regulations, title 16, section 2522.5 states:

39                  (a)     When considering the suspension or revocation of a license on the  
40                  ground that a licensed vocational nurse has been convicted of a crime, the Board,  
41                  in evaluating the rehabilitation of such person and his eligibility for a license will  
42                  consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

....

13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

14. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

- (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
- (b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.
- (c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

15. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a

1 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,  
2 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
3 practitioner, or physician assistant, when in stock in containers correctly labeled  
4 with the name and address of the supplier or producer.

5 . . . .

### 6 DRUG

7 16. Methamphetamine is a Schedule II controlled substance as designated by  
8 Health and Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to  
9 Business and Professions Code section 4022.

### 10 FIRST CAUSE FOR DISCIPLINE

#### 11 **(August 20, 2007 Criminal Conviction for Battery & Being Under the Influence 12 of a Controlled Substance on September 18, 2006)**

13 17. Respondent has subjected her license to disciplinary action under sections  
14 490 and 2878, subdivision (f) of the Code in that Respondent was convicted of a crime that is  
15 substantially related to the qualifications, functions, and duties of a licensed vocational nurse.  
16 The circumstances are as follows:

17 a. On or about August 20, 2007, in a criminal proceeding entitled  
18 *People v. Stacy Michelle Klindworth*, Riverside County Superior Court, case number  
19 RIM489112, Respondent was convicted on her plea of guilty of violating Penal Code section  
20 243, subdivision (e)(1), domestic battery; and Health and Safety Code section 11550,  
21 subdivision (a), under the influence of a controlled substance, to wit, methamphetamine,  
22 misdemeanors.

23 b. As a result of the conviction, on or about August 20, 2007,  
24 Respondent was sentenced to the following: 90 days in sheriff's custody, with credit for two  
25 days (on the Weekender Program), 36 months summary probation, attend and complete 20  
26 Narcotics Anonymous meetings, attend and complete a 52-week Domestic Violence Program,  
27 and payment of fees, fines, and restitution in the amount of \$620. A protective order was issued  
28 on behalf of Respondent's victim.

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1 c. The facts that led to the conviction were that on or about the  
2 afternoon of September 20, 2006, Respondent's live-in boyfriend and the father of her son, made  
3 a domestic violence report at the Corona Police Department. The boyfriend told the officer that  
4 on September 18, 2006, he and Respondent, who was six months pregnant with their second  
5 child, had gotten into an argument in a vehicle driven by the boyfriend. Respondent had become  
6 upset over finding a photograph of his ex-girlfriend. Respondent threw a water bottle at the  
7 boyfriend, but missed. The boyfriend ordered Respondent out of his vehicle. Before she got out,  
8 Respondent punched the boyfriend in his arm with a closed fist, leaving a bruise on his right  
9 tricep. The officer went to the home of Respondent. During an interview, Respondent admitted  
10 punching her boyfriend two days earlier and demonstrated how she hit him. Respondent was  
11 transported to jail. In a search incident to her booking, a small empty plastic baggy was found in  
12 Respondent's front pocket. Respondent admitted using "speed" that day. The officer noted that  
13 her eyelids fluttered when they were closed, her pupils showed Hippus, and they were dilated to  
14 6.5mm in near darkness. Because Respondent was six months pregnant, the officer transported  
15 her to a local hospital for evaluation. A blood sample was drawn and Respondent was taken to  
16 jail.

## 17 **SECOND CAUSE FOR DISCIPLINE**

### 18 **(Unprofessional Conduct - Use of a Controlled Substance)**

19 18. Respondent has subjected her license to disciplinary action under section  
20 2878.5, subdivision (b) of the Code in that on or about August 20, 2007, Respondent pled guilty  
21 to and was convicted of being under the influence of a controlled substance on September 20,  
22 2006. Respondent's use of methamphetamine, a dangerous drug pursuant to Business and  
23 Professions Code section 4022, was in a manner dangerous or injurious to herself and others,  
24 including her unborn child. Said use also demonstrates a level of addiction that has the potential  
25 to impair her ability to safely practice nursing.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Criminal Conviction Involving the Consumption of a Controlled Substance)**

3 19. Respondent has subjected her license to disciplinary action under section  
4 2878.5, subdivision (c) of the Code in that on or about August 20, 2007, Respondent pled guilty  
5 to and was convicted of being under the influence of a controlled substance on September 20,  
6 2006.

7 **DISCIPLINARY CONSIDERATIONS**

8 20. To determine the degree of discipline, if any, to be imposed on  
9 Respondent, Complainant alleges that on or about September 6, 2000, in a prior criminal  
10 proceeding entitled *People v. Stacy Michelle Klindworth*, in Riverside County Superior Court,  
11 case number RIF087347, following successful completion of a drug treatment program, the court  
12 dismissed proceedings against Respondent for violating Health and Safety Code section 11377,  
13 subdivision (a), possession of a controlled substance, to wit, methamphetamine, a felony.  
14 Respondent was arrested on August 11, 1999, following a probation compliance check at her  
15 Riverside apartment. Respondent was found in possession of two glass methamphetamine pipes,  
16 and admitted to the officers that she had smoked methamphetamine just prior to their arrival.  
17 Respondent's pupils were dilated and her pulse was 140 beats per minute. A drug screen of  
18 Respondent's blood subsequently tested positive for methamphetamine

19 21. To determine the degree of discipline, if any, to be imposed on  
20 Respondent, Complainant alleges that on or about December 17, 1996, in a prior criminal  
21 proceeding entitled *People v. Stacy Michelle Klindworth*, in Riverside County Superior Court,  
22 case number 70911, Respondent was convicted on her plea of guilty for violating Vehicle Code  
23 section 10851, subdivision (a), taking a vehicle without the owner's consent, a felony. As a  
24 result of the conviction, Respondent was sentenced to 180 days in the sheriff's custody (on the  
25 weekender program) with credit for 50 days, 36 months formal probation, payment of fees, fines,  
26 and restitution, and additional terms.

27 22. In a letter to Respondent dated September 27, 2004, Enforcement Analyst  
28 Millie Lowery advised Respondent that the Bureau approved her application for a vocational



1 nurse license following its investigation into the criminal matters outlined in paragraphs 20 and  
2 21, above. However, Respondent was warned that future substantiated reports of similar  
3 behavior, or violations of the laws or regulations governing the practice of a vocational nurse  
4 could result in disciplinary action against Respondent's license.

5 PRAYER

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
7 alleged, and that following the hearing, the Bureau of Vocational Nursing and Psychiatric  
8 Technicians issue a decision:

- 9 1. Revoking or suspending Vocational Nurse License Number VN 211568,  
10 issued to Stacy Michelle Klindworth;
  - 11 2. Ordering Stacy Michelle Klindworth to pay the Bureau of Vocational  
12 Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of  
13 this case, pursuant to Business and Professions Code section 125.3;
  - 14 3. Taking such other and further action as deemed necessary and proper.
- 15

16 DATED: September 3, 2008

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19 TERESA BELLO-JONES, J.D., M.S.N., R.N.  
20 Executive Officer  
21 Bureau of Vocational Nursing and Psychiatric Technicians  
22 Department of Consumer Affairs  
23 State of California  
24 Complainant

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